

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

NOEL COKER, ET AL.

§

v.

§

CIVIL ACTION NO. 9:08cv118

CROWN COLONY HOSPITALITY, INC., §  
d/b/a Crown Colony Best Western

REPORT AND RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE

Plaintiffs filed the above-styled lawsuit on May 16, 2008 in the District Court of Angelina County. The case was subsequently removed to this Court on June 20, 2008. On February 10, 2009, the case was referred to the undersigned for all pretrial proceedings.

The undersigned set this case for a status conference to be conducted on March 10, 2009 at 2:00 p.m. The Order setting this case for a status conference was sent to Plaintiffs via certified mail. The Court received an acknowledgment of receipt card showing that Plaintiffs received the Order setting the case for a status conference.

Plaintiffs did not attend the status conference or notify the Court that they would not be attending. The undersigned therefore concludes that Plaintiffs have failed to prosecute this case. The case should, therefore, be dismissed pursuant to Fed.R.Civ.P. 41(b).

### RECOMMENDATION

In light of the foregoing, it is recommended that the above-entitled lawsuit be **DISMISSED** without prejudice. FED. R. CIV. P. 41(b).

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within ten days after service shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Assn.*, 79 F.3d 1415, 1430 (5<sup>th</sup> Cir. 1996) (*en banc*).

So **ORDERED** and **SIGNED** this **11** day of **March, 2009**.

  
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JUDITH K. GUTHRIE  
UNITED STATES MAGISTRATE JUDGE